

COMMITTEE PRINT

JULY 10, 2002

[Showing provisions proposed for inclusion
in H.R. 5005, as reported]

107TH CONGRESS
2D SESSION

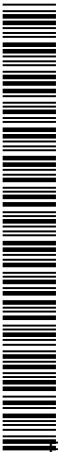
H. R. 5005

To establish the Department of Homeland Security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2002

Mr. ARMEY (for himself, Mr. HASTERT, Mr. DELAY, Mr. WATTS of Oklahoma, Mr. COX, Ms. PRYCE of Ohio, Mrs. CUBIN, Mr. TOM DAVIS of Virginia, Mr. BLUNT, Mr. PORTMAN, Mr. ADERHOLT, Mr. AKIN, Mr. BALLENGER, Mr. BARR of Georgia, Mr. BASS, Mr. BEREUTER, Mr. BOEHLERT, Mr. BONILLA, Mrs. BONO, Mr. BRADY of Texas, Mr. BROWN of South Carolina, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALVERT, Mr. CAMP, Mr. CANTOR, Mrs. CAPITO, Mr. CASTLE, Mr. CHAMBLISS, Mr. COOKSEY, Mr. CRENSHAW, Mrs. JO ANN DAVIS of Virginia, Mr. DREIER, Mr. DEMINT, Ms. DUNN of Washington, Mr. EHRLICH, Mr. ENGLISH, Mr. FERGUSON, Mr. FORBES, Mr. FOSSELLA, Mr. GANSKE, Mr. GEKAS, Mr. GIBBONS, Mr. GILMAN, Mr. GILLMOR, Mr. GOODE, Ms. GRANGER, Mr. GREEN of Wisconsin, Mr. GREENWOOD, Mr. GRUCCI, Mr. HANSEN, Ms. HARMAN, Ms. HART, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HEFLEY, Mr. HERGER, Mr. HOEKSTRA, Mr. HORN, Mr. HOUGHTON, Mr. ISSA, Mr. JENKINS, Mrs. JOHNSON of Connecticut, Mr. KELLER, Mrs. KELLY, Mr. KING, Mr. KOLBE, Mr. LAHOOD, Mr. LINDER, Mr. MCCREY, Mr. MCKEON, Mr. MALONEY of Connecticut, Mr. MANZULLO, Mr. DAN MILLER of Florida, Mr. GARY G. MILLER of California, Mrs. MORELLA, Mrs. MYRICK, Mr. NUSSLE, Mr. OSBORNE, Mr. OXLEY, Mr. PICKERING, Mr. PITTS, Mr. PUTNAM, Mr. REHBERG, Mr. ROHRBACHER, Mr. ROYCE, Mrs. ROUKEMA, Mr. RYUN of Kansas, Mr. SAXTON, Mr. SCHROCK, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHAW, Mr. SHAYS, Mr. SHERWOOD, Mr. SIMPSON, Mr. SKEEN, Mr. SOUDER, Mr. SWEENEY, Mr. TANCREDO, Mr. TAUZIN, Mr. THORNBERRY, Mr. TIBERI, Mr. UPTON, Mr. SHIMKUS, Mr. WALDEN, Mr. WAMP, Mr. WELDON of Pennsylvania, Mr. WELLER, Mr. WHITFIELD, Mr. WICKER, Mrs. WILSON of New Mexico, and Mr. WILSON of South



Carolina) (all by request) introduced the following bill; pursuant to House Resolution 449, referred to the Select Committee on Homeland Security for a period to be subsequently determined by the Speaker, and in addition to the Committees on Agriculture, Appropriations, Armed Services, Energy and Commerce, Financial Services, Intelligence (Permanent Select), International Relations, the Judiciary, Science, Transportation and Infrastructure, and Ways and Means, for a period ending not later than July 12, 2002, in each case for consideration of such matters as fall within the jurisdiction of the committee concerned

A BILL

To establish the Department of Homeland Security, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Homeland Security Act of 2002”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

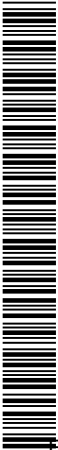
- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Construction; severability.
- Sec. 4. Effective date.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

- Sec. 101. Executive department; mission.
- Sec. 102. Secretary; functions.
- Sec. 103. Other officers.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

- Sec. 201. Under Secretary for Information Analysis and Infrastructure Protection.
- Sec. 202. Functions transferred.
- Sec. 203. Access to information.
- Sec. 204. Information voluntarily provided.



Sec. 205. Federal cybersecurity program.

TITLE III—RESEARCH, DEVELOPMENT AND TECHNOLOGY
SYSTEMS

Sec. 301. Under Secretary for Research, Development, and Technology Systems.

Sec. 302. Functions transferred.

Sec. 303. Conduct of certain public health-related activities.

Sec. 304. Security at Federal research laboratories.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

Sec. 401. Under Secretary for Border and Transportation Security.

Sec. 402. Functions transferred.

Sec. 403. Visa issuance.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

Sec. 501. Under Secretary for Emergency Preparedness and Response.

Sec. 502. Functions transferred.

Sec. 503. Nuclear incident response.

Sec. 504. Definition.

TITLE VI—MANAGEMENT

Sec. 601. Under Secretary for Management.

Sec. 602. Chief Financial Officer.

Sec. 603. Chief Information Officer.

TITLE VII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; GENERAL PROVISIONS

Subtitle B—Inspector General

Sec. 710. Authority of the Secretary.

Subtitle C—United States Secret Service

Sec. 720. Functions transferred.

Subtitle D—General Provisions

Sec. 730. Establishment of human resources management system.

Sec. 731. Advisory committees.

Sec. 732. Acquisitions; property.

Sec. 733. Reorganization; transfer.

Sec. 734. Miscellaneous provisions.

Sec. 735. Authorization of appropriations.

Sec. 736. Military activities.

Sec. 737. Rule of construction regarding regulatory authority.

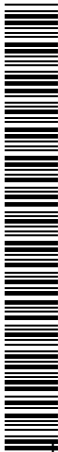
Sec. 738. Provisions regarding transfers from Department of Energy.

TITLE VIII—TRANSITION

Sec. 801. Definitions.

Sec. 802. Transfer of agencies.

Sec. 803. Transitional authorities.



Sec. 804. Savings provisions.
Sec. 805. Terminations.
Sec. 806. Incidental transfers.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

Sec. 901. Inspector General Act.
Sec. 902. Executive schedule.
Sec. 903. United States Secret Service.
Sec. 904. Coast Guard.
Sec. 905. Strategic national stockpile and smallpox vaccine development.
Sec. 906. Biological agents; Public Health Service Act.
Sec. 907. National Bio-Weapons Defense Analysis Center.

1 **SEC. 2. DEFINITIONS.**

2 The following shall apply for purposes of this Act:

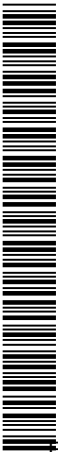
3 (1) The term “American homeland” or “home-
4 land” means the United States, in a geographic
5 sense.

6 (2) The term “assets” includes contracts, facili-
7 ties, property, records, unobligated or unexpended
8 balances of appropriations, and other funds or re-
9 sources (other than personnel).

10 (3) The term “Department” means the Depart-
11 ment of Homeland Security.

12 (4) The term “emergency response providers”
13 includes Federal, State, and local emergency public
14 safety, law enforcement, emergency response, emer-
15 gency medical, and related personnel, agencies, and
16 authorities.

17 (5) The term “executive agency” means an ex-
18 ecutive agency and a military department, as de-



1 fined, respectively, in sections 105 and 102 of title
2 5, United States Code.

3 (6) The term “functions” includes authorities,
4 powers, rights, privileges, immunities, programs,
5 projects, activities, duties, responsibilities, and obli-
6 gations.

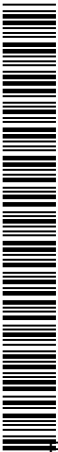
7 (7) The term “local government” has the mean-
8 ing given in section 102(6) of the Robert T. Stafford
9 Disaster Relief and Emergency Assistance Act (Pub-
10 lic Law 93–288).

11 (8) The term “major disaster” has the meaning
12 given in section 102(2) of the Robert T. Stafford
13 Disaster Relief and Emergency Assistance Act (Pub-
14 lic Law 93–288).

15 (9) The term “personnel” means officers and
16 employees.

17 (10) The term “Secretary” means the Secretary
18 of Homeland Security.

19 (11) The term “United States”, when used in
20 a geographic sense, means any State (within the
21 meaning of section 102(4) of the Robert T. Stafford
22 Disaster Relief and Emergency Assistance Act (Pub-
23 lic Law 93–288)), any possession of the United
24 States, and any waters within the jurisdiction of the
25 United States.



1 **SEC. 3. CONSTRUCTION; SEVERABILITY.**

2 Any provision of this Act held to be invalid or unen-
3 forceable by its terms, or as applied to any person or cir-
4 cumstance, shall be construed so as to give it the max-
5 imum effect permitted by law, unless such holding shall
6 be one of utter invalidity or unenforceability, in which
7 event such provision shall be deemed severable from this
8 Act and shall not affect the remainder thereof, or the ap-
9 plication of such provision to other persons not similarly
10 situated or to other, dissimilar circumstances.

11 **SEC. 4. EFFECTIVE DATE.**

12 This Act shall take effect thirty days after the date
13 of enactment or, if enacted within thirty days before Janu-
14 ary 1, 2003, on January 1, 2003.

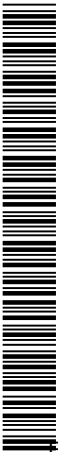
15 **TITLE I—DEPARTMENT OF**
16 **HOMELAND SECURITY**

17 **SEC. 101. EXECUTIVE DEPARTMENT; MISSION.**

18 (a) ESTABLISHMENT.—There is established a De-
19 partment of Homeland Security, as an executive depart-
20 ment of the United States within the meaning of title 5,
21 United States Code.

22 (b) MISSION.—(1) The primary mission of the De-
23 partment is to—

24 (A) prevent terrorist attacks within the United
25 States;



1 (B) reduce the vulnerability of the United
2 States to terrorism; and

3 (C) minimize the damage, and assist in the re-
4 covery, from terrorist attacks that occur within the
5 United States.

6 (2) The Secretary shall also be responsible for car-
7 rying out the functions of entities transferred to the De-
8 partment as provided by law.

9 **SEC. 102. SECRETARY; FUNCTIONS.**

10 (a) SECRETARY.—(1) There is a Secretary of Home-
11 land Security, appointed by the President, by and with the
12 advice and consent of the Senate.

13 (2) The Secretary is the head of the Department and
14 shall have direction, authority, and control over it.

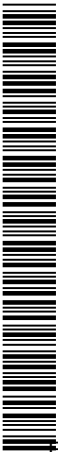
15 (3) All functions of all officers, employees, and orga-
16 nizational units of the Department are vested in the Sec-
17 retary.

18 (b) FUNCTIONS.—The Secretary—

19 (1) may delegate any of his functions to any of-
20 ficer, employee, or organizational unit of the Depart-
21 ment;

22 (2) may promulgate regulations as provided in
23 section 301 of title 5, United States Code; and

24 (3) shall have the authority to make contracts,
25 grants, and cooperative agreements, and to enter



1 into agreements with other executive agencies, as
2 may be necessary and proper to carry out his re-
3 sponsibilities under this Act or otherwise provided by
4 law.

5 **SEC. 103. OTHER OFFICERS.**

6 (a) DEPUTY SECRETARY; UNDER SECRETARIES.—
7 To assist the Secretary in the performance of his func-
8 tions, there are the following officers, appointed by the
9 President, by and with the advice and consent of the Sen-
10 ate:

11 (1) A Deputy Secretary of Homeland Security,
12 who shall be the Secretary's first assistant for pur-
13 poses of chapter 33, subchapter 3, of title 5, United
14 States Code.

15 (2) An Under Secretary for Information Anal-
16 ysis and Infrastructure Protection.

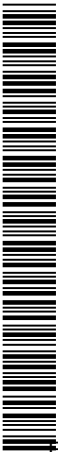
17 (3) An Under Secretary for Research, Develop-
18 ment, and Technology Systems.

19 (4) An Under Secretary for Border and Trans-
20 portation Security.

21 (5) An Under Secretary for Emergency Pre-
22 paredness and Response.

23 (6) An Under Secretary for Management.

24 (7) Not more than six Assistant Secretaries.



1 (b) INSPECTOR GENERAL.—To assist the Secretary
2 in the performance of his functions, there is an Inspector
3 General, who shall be appointed as provided in section
4 3(a) of the Inspector General Act of 1978.

5 (c) COMMANDANT OF THE COAST GUARD.—To assist
6 the Secretary in the performance of his functions, there
7 is a Commandant of the Coast Guard, who shall be ap-
8 pointed as provided in section 44 of title 14, United States
9 Code.

10 (d) OTHER OFFICERS.—To assist the Secretary in
11 the performance of his functions, there are the following
12 officers, appointed by the President:

13 (1) A General Counsel, who shall be the chief
14 legal officer of the Department.

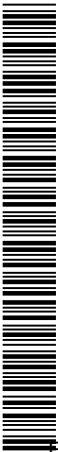
15 (2) Not more than ten Assistant Secretaries.

16 (3) A Director of the Secret Service.

17 (4) A Chief Financial Officer.

18 (5) A Chief Information Officer.

19 (e) PERFORMANCE OF SPECIFIC FUNCTIONS.—Sub-
20 ject to the provisions of this Act, every officer of the de-
21 partment shall perform the functions specified by law for
22 his office or prescribed by the Secretary.



1 **TITLE II—INFORMATION ANAL-**
2 **YSIS AND INFRASTRUCTURE**
3 **PROTECTION**

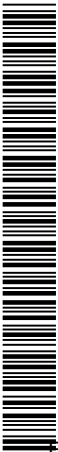
4 **SEC. 201. UNDER SECRETARY FOR INFORMATION ANALYSIS**
5 **AND INFRASTRUCTURE PROTECTION.**

6 The Secretary, acting through the Under Secretary
7 for Information Analysis and Infrastructure Protection,
8 shall have responsibility for—

9 (1) receiving and analyzing law enforcement in-
10 formation, intelligence, and other information in
11 order to understand the nature and scope of the ter-
12 rorist threat to the American homeland and to de-
13 tect and identify potential threats of terrorism with-
14 in the United States;

15 (2) comprehensively assessing (in addition to,
16 and not in lieu of, assessments collected, possessed,
17 or prepared by other executive agencies) the
18 vulnerabilities of the key resources and critical infra-
19 structures in the United States to a terrorist attack
20 or other intentional act intended to substantially dis-
21 rupt the functioning of such resources and infra-
22 structures;

23 (3) integrating relevant information, intelligence
24 analyses, and vulnerability assessments (whether
25 such information, analyses, or assessments are pro-

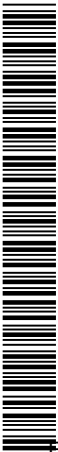


1 vided or produced by the Department or others) to
2 identify protective priorities and to support protec-
3 tive measures by the Department (with respect to
4 those functions established under another Act and
5 transferred to the Secretary by this Act), by other
6 executive agencies, by State and local government
7 personnel, agencies, and authorities, by the private
8 sector, and by other entities;

9 (4) developing a comprehensive national plan
10 for securing the key resources and critical infra-
11 structures in the United States to a terrorist attack
12 or other intentional act intended to substantially dis-
13 rupt the functioning of such resources and infra-
14 structure;

15 (5) taking (with respect to those functions es-
16 tablished under another Act and transferred to the
17 Secretary by this Act) or seeking to effect necessary
18 measures to protect the key resources and critical
19 infrastructures in the United States, in coordination
20 with other executive agencies and in cooperation
21 with State and local government personnel, agencies,
22 and authorities, the private sector, and other enti-
23 ties;

24 (6) administering the Homeland Security Advi-
25 sory System, exercising primary responsibility for



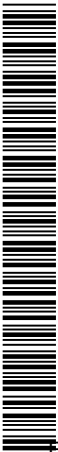
1 public advisories relating to terrorist threats, and (in
2 coordination with other executive agencies) providing
3 specific warning information to State and local gov-
4 ernment personnel, agencies, and authorities, the
5 private sector, other entities, and the public, as well
6 as advice about appropriate protective actions and
7 countermeasures; and

8 (7) reviewing, analyzing, and making rec-
9 ommendations for improvements in the policies and
10 procedures governing the sharing of law enforce-
11 ment, intelligence, and other information relating to
12 homeland security within the Federal Government
13 and between such government and State and local
14 government personnel, agencies, and authorities.

15 **SEC. 202. FUNCTIONS TRANSFERRED.**

16 In accordance with title VIII, there shall be trans-
17 ferred to the Secretary the functions, personnel, assets,
18 and liabilities of the following:

19 (1) The National Infrastructure Protection
20 Center of the Federal Bureau of Investigation (other
21 than the Computer Investigations and Operations
22 Section), including the functions of the Attorney
23 General relating thereto.



1 (2) The National Communications System of
2 the Department of Defense, including the functions
3 of the Secretary of Defense relating thereto.

4 (3) The Critical Infrastructure Assurance Of-
5 fice of the Department of Commerce, including the
6 functions of the Secretary of Commerce relating
7 thereto.

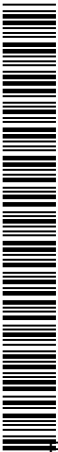
8 (4) The Computer Security Division of the Na-
9 tional Institute of Standards and Technology, in-
10 cluding the functions of the Secretary of Commerce
11 relating thereto.

12 (5) The energy security and assurance program
13 and activities of the Department of Energy (includ-
14 ing the National Infrastructure Simulation and
15 Analysis Center), including the functions of the Sec-
16 retary of Energy relating thereto.

17 (6) The Federal Computer Incident Response
18 Center of the General Services Administration, in-
19 cluding the functions of the Administrator of Gen-
20 eral Services relating thereto.

21 **SEC. 203. ACCESS TO INFORMATION.**

22 The Secretary shall have access to all reports, assess-
23 ments, and analytical information relating to threats of
24 terrorism in the United States, and to all information con-
25 cerning the vulnerabilities of key resources and critical in-



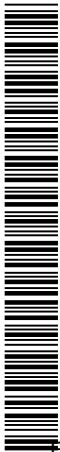
1 frastructures, or other vulnerabilities, of the United States
2 to terrorism, whether or not such information has been
3 analyzed, that may be collected, possessed, or prepared by
4 any executive agency, except as otherwise directed by the
5 President. The Secretary shall also have access to other
6 information relating to the foregoing matters that may be
7 collected, possessed, or prepared by an executive agency,
8 as the President may further provide. With respect to the
9 material to which the Secretary has access under this
10 section—

11 (1) the Secretary may obtain such material by
12 request, and may enter into cooperative arrange-
13 ments with other executive agencies to share such
14 material on a regular or routine basis, including re-
15 quests or arrangements involving broad categories of
16 material;

17 (2) regardless of whether the Secretary has
18 made any request or entered into any cooperative ar-
19 rangement pursuant to paragraph (1), all executive
20 agencies promptly shall provide to the Secretary—

21 (A) all intelligence reports, assessments,
22 and analytical information relating to threats of
23 terrorism in the United States;

24 (B) all information relating to significant
25 and credible threats of terrorism in the United



1 States, whether or not such information has
2 been analyzed, if the President has provided
3 that the Secretary shall have access to such in-
4 formation; and

5 (C) such other material as the President
6 may further provide; and

7 (3) the Secretary shall ensure that—

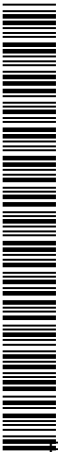
8 (A) material to which the Secretary has ac-
9 cess under this section is protected from disclo-
10 sure to the extent provided under Federal laws
11 other than this Act, and is handled and used
12 only for the performance of official duties;

13 (B) such material that is intelligence infor-
14 mation is transmitted, retained, and dissemi-
15 nated consistent with the authority of the Di-
16 rector of Central Intelligence to protect intel-
17 ligence sources and methods under the National
18 Security Act and related procedures; and

19 (C) such material that is sensitive law en-
20 forcement information is transmitted, retained,
21 and disseminated consistent with the authority
22 of the Attorney General under applicable law.

23 **SEC. 204. INFORMATION VOLUNTARILY PROVIDED.**

24 *[Omitted from Committee consideration]*



1 **SEC. 205. FEDERAL CYBERSECURITY PROGRAM.**

2 (a) IN GENERAL.—The Secretary, acting through the
3 Under Secretary for Information Analysis and Infrastruc-
4 ture Protection, shall establish and manage a program to
5 improve the security of Federal critical information sys-
6 tems, including carrying out responsibilities under para-
7 graphs (2) and (3) of section 201 that relate to such sys-
8 tems.

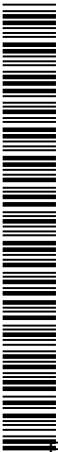
9 (b) DUTIES.—The duties of the Secretary under sub-
10 section (a) are—

11 (1) to evaluate the increased use by civilian ex-
12 ecutive agencies of techniques and tools to enhance
13 the security of Federal critical information systems,
14 including, as appropriate, consideration of cryptog-
15 raphy;

16 (2) to provide assistance to civilian executive
17 agencies in protecting the security of Federal critical
18 information systems, including identification of sig-
19 nificant risks to such systems; and

20 (3) to coordinate research and development for
21 critical information systems relating to supervisory
22 control and data acquisition systems, including, as
23 appropriate, the establishment of a test bed.

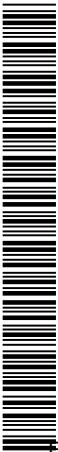
24 (c) FEDERAL INFORMATION SYSTEM SECURITY
25 TEAM.—



1 (1) IN GENERAL.—In carrying out subsection
2 (b)(2), the Secretary shall establish, manage, and
3 support a Federal information system security team
4 whose purpose is to provide technical expertise to ci-
5 vilian executive agencies to assist such agencies in
6 securing Federal critical information systems by con-
7 ducting information security audits of such systems,
8 including conducting tests of the effectiveness of in-
9 formation security control techniques and per-
10 forming logical access control tests of interconnected
11 computer systems and networks, and related vulner-
12 ability assessment techniques.

13 (2) TEAM MEMBERS.—The Secretary shall en-
14 sure that the team under paragraph (1) includes
15 technical experts and auditors, computer scientists,
16 and computer forensics analysts whose technical
17 competence enables the team to conduct audits
18 under such paragraph.

19 (3) AGENCY AGREEMENTS REGARDING AU-
20 DITS.—Each civilian executive agency may enter into
21 an agreement with the team under paragraph (1) for
22 the conduct of audits under such paragraph of the
23 Federal critical information systems of the agency.
24 Such agreement shall establish the terms of the
25 audit and shall include provisions to minimize the



1 extent to which the audit disrupts the operations of
2 the agency.

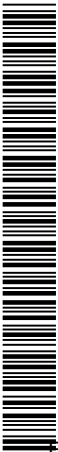
3 (4) REPORTS.—Promptly after completing an
4 audit under paragraph (1) of a civilian executive
5 agency, the team under such paragraph shall pre-
6 pare a report summarizing the findings of the audit
7 and making recommendations for corrective action.
8 Such report shall be submitted to the Secretary, the
9 head of such agency, and the Inspector General of
10 the agency (if any), and upon request of any con-
11 gressional committee with jurisdiction over such
12 agency, to such committee.

13 (d) DEFINITION.—For purposes of this section, the
14 term “Federal critical information system” means an “in-
15 formation system” as defined in section 3502 of title 44,
16 United States Code, that—

17 (1) is, or is a component of, a key resource or
18 critical infrastructure;

19 (2) is used or operated by a civilian executive
20 agency or by a contractor of such an agency; and

21 (3) does not include any national security sys-
22 tem as defined in section 5142 of the Clinger-Cohen
23 Act of 1996.



1 **TITLE III—RESEARCH, DEVELOP-**
2 **MENT AND TECHNOLOGY SYS-**
3 **TEMS**

4 **SEC. 301. UNDER SECRETARY FOR RESEARCH, DEVELOP-**
5 **MENT AND TECHNOLOGY SYSTEMS.**

6 The Secretary, acting through the Under Secretary
7 for Research, Development, and Technology Systems,
8 shall have responsibility for—

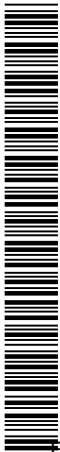
9 (1) conducting and supporting a national sci-
10 entific research and development program to support
11 the mission of the Department, except that such re-
12 sponsibility does not extend to human health-related
13 research and development activities;

14 (2) establishing long-term research and develop-
15 ment needs and capabilities for all elements of the
16 Department;

17 (3) integrating similar research and develop-
18 ment needs between the operating elements of the
19 Department;

20 (4) aligning research and development pro-
21 grams with other executive agencies to reduce dupli-
22 cation and identify unmet needs;

23 (5) in consultation with other appropriate exec-
24 utive agencies, developing a national policy and stra-
25 tegic plan for, identifying priorities for, and coordi-



1 nating the Federal Government's civilian efforts to
2 identify and develop countermeasures to chemical,
3 biological, radiological, nuclear, and other emerging
4 terrorist threats;

5 (6) establishing priorities for, conducting, and
6 supporting national research, development, dem-
7 onstration, and, as appropriate, transitional oper-
8 ation of technology and systems—

9 (A) for preventing the importation of
10 chemical, biological, radiological, nuclear weap-
11 ons and related material;

12 (B) for detecting, preventing, and pro-
13 tecting against terrorist attacks that involve
14 such weapons or related material; and

15 (C) for interoperability of communications
16 systems for emergency response providers;

17 (7) establishing a central Federal repository for
18 information relating to technologies and systems de-
19 scribed in paragraph (6) for dissemination to Fed-
20 eral, State and local government and private sector
21 personnel, agencies and authorities; and

22 (8) developing nonmandatory and technology-
23 neutral standards, and providing recommendations
24 and technical assistance as appropriate, to assist
25 Federal, State and local government and private sec-



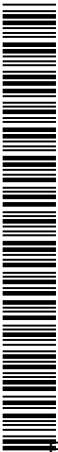
1 tor efforts to evaluate and implement the use of
2 technologies and systems described in subparagraphs
3 (A) and (B) of paragraph (6).

4 **SEC. 302. FUNCTIONS TRANSFERRED.**

5 In accordance with title VIII, there shall be trans-
6 ferred to the Secretary the functions, personnel, assets,
7 and liabilities of the following:

8 (1) The program under section 351A of the
9 Public Health Service Act, and functions thereof, in-
10 cluding the functions of the Secretary of Health and
11 Human Services relating thereto, subject to the
12 amendments made by section 906(3), except that
13 such transfer shall not occur unless the program
14 under section 212 of the Agricultural Bioterrorism
15 Protection Act of 2002 (subtitle B of title II of Pub-
16 lic Law 107-188), and functions thereof, including
17 the functions of the Secretary of Agriculture relating
18 thereto, subject to the amendments made by section
19 907, is transferred to the Department.

20 (2) Such aspects of programs and activities of
21 the Department of Energy as relate to homeland se-
22 curity, including the functions of the Secretary of
23 Energy relating thereto (but not including programs
24 and activities relating to the strategic nuclear de-
25 fense posture of the United States), as follows:



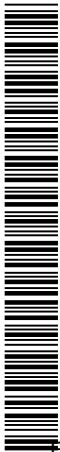
1 (A) The chemical and biological national
2 security and supporting programs and activities
3 of the non-proliferation and verification re-
4 search and development program.

5 (B) The nuclear smuggling programs and
6 activities, and other programs and activities,
7 within the proliferation detection program of
8 the non-proliferation and verification research
9 and development program, except that the pro-
10 grams and activities described in this subpara-
11 graph may be designated by the President ei-
12 ther for transfer to the Department or for joint
13 operation by the Secretary and the Secretary of
14 Energy.

15 (C) The nuclear assessment program and
16 activities of the assessment, detection, and co-
17 operation program of the international mate-
18 rials protection and cooperation program.

19 (D) Such life sciences activities of the bio-
20 logical and environmental research program re-
21 lated to microbial pathogens as may be des-
22 ignated for transfer to the Department by the
23 President.

24 (E) The Environmental Measurements
25 Laboratory.



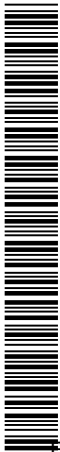
1 (F) The advanced scientific computing re-
2 search program and activities, and the intel-
3 ligence program and activities, at Lawrence
4 Livermore National Laboratory.

5 (3) The National Bio-Weapons Defense Anal-
6 ysis Center of the Department of Defense, including
7 the functions of the Secretary of Defense related
8 thereto.

9 (4) The Plum Island Animal Disease Center of
10 the Department of Agriculture, including the func-
11 tions of the Secretary of Agriculture relating there-
12 to.

13 **SEC. 303. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED**
14 **ACTIVITIES.**

15 With respect to civilian human health-related re-
16 search and development activities relating to counter-
17 measures for chemical, biological, radiological, and nuclear
18 and other emerging terrorist threats carried out by the
19 Department of Health and Human Services (including the
20 Public Health Service), the Secretary of Health and
21 Human Services shall set priorities for such activities in
22 collaboration with the Secretary of the Department of
23 Homeland Security.



1 **SEC. 304. SECURITY AT FEDERAL RESEARCH LABORA-**
2 **TORIES.**

3 *[Former section 304 transferred to title VII]*

4 The Secretary, in consultation with the Attorney
5 General, shall have authority to establish standards for se-
6 curity at Federal civilian facilities, other than facilities of
7 the Department of Energy, that conduct research and de-
8 velopment to identify and develop countermeasures to
9 chemical, biological, radiological, nuclear, and other
10 emerging terrorist threats.

11 **TITLE IV—BORDER AND**
12 **TRANSPORTATION SECURITY**

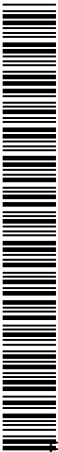
13 *[Omitted from Committee consideration]*

14 **TITLE V—EMERGENCY**
15 **PREPAREDNESS AND RESPONSE**

16 **SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPARED-**
17 **NESS AND RESPONSE.**

18 The Secretary, acting through the Under Secretary
19 for Emergency Preparedness and Response, shall have re-
20 sponsibility for—

21 (1) assisting in the preparedness of emergency
22 response providers for terrorist attacks, major disas-
23 ters, and other emergencies;



1 (2) with respect to Federal emergency response
2 providers, conducting joint and other exercises and
3 training and evaluating performance in consultation
4 with the heads of the relevant executive agencies;

5 (3) with respect to emergency response func-
6 tions transferred to the Secretary by this Act, pro-
7 viding the Federal Government's response to ter-
8 rorist attacks and major disasters;

9 (4) coordinating other Federal response re-
10 sources in the event of a terrorist attack or major
11 disaster;

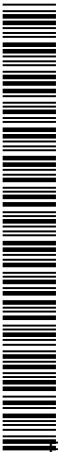
12 (5) assisting in the recovery from terrorist at-
13 tacks and major disasters;

14 (6) building a comprehensive national incident
15 management system with Federal, State, and local
16 government personnel, agencies, and authorities, to
17 respond to such attacks and disasters;

18 (7) consolidating existing Federal Government
19 emergency response plans into a single, coordinated
20 national response plan; and

21 (8) with respect to Federal programs that pro-
22 vide assistance to emergency response providers to
23 enhance preparedness and response for terrorist at-
24 tacks or major disasters—

25 (A) identifying preparedness priorities;



1 (B) evaluating the effectiveness of, and co-
2 ordination among, such programs; and

3 (C) making recommendations to enhance
4 the effectiveness of such programs, and to mini-
5 mize inconsistencies and duplication among
6 such programs.

7 **SEC. 502. FUNCTIONS TRANSFERRED.**

8 In accordance with title VIII, there shall be trans-
9 ferred to the Secretary the functions, personnel, assets,
10 and liabilities of the following:

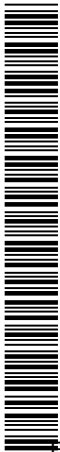
11 (1) The Federal Emergency Management Agen-
12 cy, including the functions of the Director of the
13 Federal Emergency Management Agency relating
14 thereto.

15 (2) The Office for Domestic Preparedness of
16 the Office of Justice Programs, including the func-
17 tions of the Attorney General relating thereto.

18 (3) The National Domestic Preparedness Office
19 of the Federal Bureau of Investigation, including the
20 functions of the Attorney General relating thereto.

21 (4) The Domestic Emergency Support Teams
22 of the Department of Justice, including the func-
23 tions of the Attorney General relating thereto.

24 (5) The Office of Emergency Preparedness, the
25 National Disaster Medical System, and the Metro-



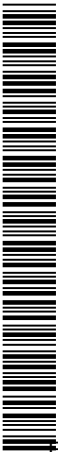
1 politan Medical Response System of the Department
2 of Health and Human Services, including the func-
3 tions of the Secretary of Health and Human Serv-
4 ices and the Assistant Secretary for Public Health
5 Emergency Preparedness relating thereto.

6 (6) To the extent provided pursuant to the
7 amendments made by section 905, the Strategic Na-
8 tional Stockpile of the Department of Health and
9 Human Services.

10 **SEC. 503. NUCLEAR INCIDENT RESPONSE.**

11 (a) NUCLEAR INCIDENT RESPONSE TEAM.—At the
12 direction of the Secretary (in connection with an actual
13 or threatened terrorist attack or major disaster), the Nu-
14 clear Incident Response Team shall operate as an organi-
15 zational unit of the Department. While so operating, the
16 Nuclear Incident Response Team shall be subject to the
17 direction, authority, and control of the Secretary.

18 (b) CONSTRUCTION.—Nothing in this title limits the
19 authority of the Secretary of Energy or the Administrator
20 of the Environmental Protection Agency to organize,
21 train, equip, or utilize their respective entities in the Nu-
22 clear Incident Response Team, or to exercise direction, au-
23 thority, and control of their respective entities when the
24 entities are not operating as a unit of the Department.



1 **SEC. 504. DEFINITION.**

2 For purposes of this title, “nuclear incident response
3 team” means a resource that includes—

4 (1) those entities of the Department of Energy
5 that perform nuclear or radiological emergency sup-
6 port functions (including accident response, search
7 response, advisory, and technical operations func-
8 tions), radiation exposure functions at the medical
9 assistance facility known as Oak Ridge National
10 Laboratory, radiological assistance functions, and re-
11 lated functions; and

12 (2) those entities of the Environmental Protec-
13 tion Agency that perform radiological emergency re-
14 sponse and support functions.

15 **[SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RE-**
16 **LATED ACTIVITIES.]**

17 *[The Committee Print strikes section 505.]*

18 **TITLE VI—MANAGEMENT**

19 *[Omitted from Committee consideration]*



1 **TITLE VII—COORDINATION WITH**
2 **NON-FEDERAL ENTITIES; IN-**
3 **SPECTOR GENERAL; UNITED**
4 **STATES SECRET SERVICE;**
5 **GENERAL PROVISIONS**

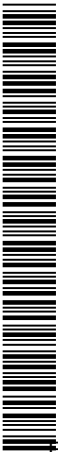
6 *[Omitted from Committee consideration, except section*
7 *701; 733; the addition of a section 736 (transferred from*
8 *title III of the bill); and the addition of new sections 737*
9 *and 738.]*

10 **[SEC. 701. RESPONSIBILITIES.]**

11 *[The Committee Print strikes section 701.]*

12 **SEC. 733. REORGANIZATION; TRANSFER.**

13 The Secretary may allocate or reallocate functions
14 among the officers of the Department, and may establish,
15 consolidate, alter, or discontinue organizational units with-
16 in the Department, but only after the expiration of 90
17 days after providing notice of such action to the Congress,
18 which shall include an explanation of the rationale for the
19 action. Authority under this section does not extend to the
20 abolition of any entity established or required to be main-
21 tained as a distinct entity by this Act, or to any entity



1 or function transferred to the Department by this Act and
2 established by statute.

3 **SEC. 736. MILITARY ACTIVITIES.**

4 *[Formerly was section 304]*

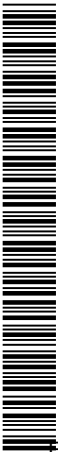
5 Except as specifically provided in this Act, nothing
6 in this Act shall confer upon the Secretary any authority
7 to engage in warfighting, the military defense of the
8 United States, or other traditional military activities.

9 **SEC. 737. RULE OF CONSTRUCTION REGARDING TRANSFER**
10 **OF AUTHORITY.**

11 (a) REGULATORY AUTHORITY.—With respect to reg-
12 ulatory authority (whether applying by order, by regula-
13 tion, or by direct operation of law), this Act may not be
14 construed as—

15 (1) establishing such authority for the Sec-
16 retary, except to the extent that a function trans-
17 ferred to the Secretary by section 202, 302, 402,
18 403, 502, or 720 includes such authority; or

19 (2) altering or diminishing such authority of
20 any other executive agency, except to the extent that
21 a function of such agency that includes such author-
22 ity is transferred to the Secretary by a section speci-
23 fied in paragraph (1).



1 (b) OTHER AUTHORITY.—With respect to authority
2 that is not regulatory authority, this Act may not be con-
3 strued as—

4 (1) transferring to the Secretary such authority
5 of another executive agency, except to the extent
6 that a function transferred to the Secretary by a
7 section specified in subsection (a)(1) includes such
8 authority; or

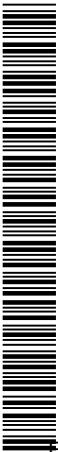
9 (2) altering or diminishing such authority of
10 any other executive agency, except to the extent
11 that—

12 (A) a function of such agency that includes
13 such authority is transferred to the Secretary
14 by a section specified in subsection (a)(1); or

15 (B) with respect to functions not so trans-
16 ferred to the Secretary, such agency is required
17 by this Act to coordinate or collaborate with the
18 Secretary, or to provide information or docu-
19 ments to the Secretary.

20 **SEC. 738. PROVISIONS REGARDING TRANSFERS FROM DE-**
21 **PARTMENT OF ENERGY.**

22 (a) SEPARATE CONTRACTING.—To the extent that
23 programs or activities transferred by this Act from the De-
24 partment of Energy to the Department of Homeland Se-
25 curity are being carried out through contracts with the

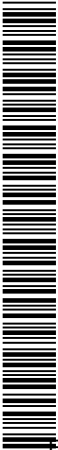


1 operator of a national laboratory of the Department of
2 Energy, the Secretary of Homeland Security and the Sec-
3 retary of Energy shall ensure that contracts for such pro-
4 grams and activities between the Department of Home-
5 land Security and such operator are separate from the
6 contracts of the Department of Energy with such oper-
7 ator.

8 (b) REIMBURSEMENT OF COSTS.—In the case of an
9 activity carried out by the operator of a national labora-
10 tory of the Department of Energy but under contract with
11 the Department of Homeland Security, the Department
12 of Homeland Security shall reimburse the Department of
13 Energy for costs of such activity through a method under
14 which the Secretary of Energy waives any requirement for
15 the Department of Homeland Security to pay administra-
16 tive charges or personnel costs of the Department of En-
17 ergy or its contractors in excess of the amount that the
18 Secretary of Energy pays for an activity carried out by
19 such contractor and paid for by the Department of En-
20 ergy.

21 **TITLE VIII—TRANSITION**

22 *[Omitted from Committee consideration]*



1 **TITLE IX—CONFORMING AND**
2 **TECHNICAL AMENDMENTS**

3 *[Sections 901 through 904 omitted from Committee*
4 *consideration]*

5 **SEC. 905. STRATEGIC NATIONAL STOCKPILE AND SMALL-**
6 **POX VACCINE DEVELOPMENT.**

7 (a) IN GENERAL.—The Public Health Security and
8 Bioterrorism Preparedness and Response Act of 2002 is
9 amended—

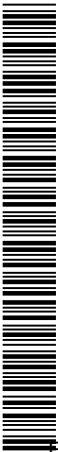
10 (1) in section 121(a)(1)—

11 (A) by striking “Secretary of Health and
12 Human Services” and inserting “Secretary of
13 Homeland Security”;

14 (B) by inserting “the Secretary of Health
15 and Human Services and” between “in coordi-
16 nation with” and “the Secretary of Veterans
17 Affairs”; and

18 (C) by inserting “of Health and Human
19 Services” after “as are determined by the Sec-
20 retary”; and

21 (2) in subsections 121(a)(2) and (b), by insert-
22 ing “of Health and Human Services” after “Sec-
23 retary” each place it appears.



1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of transfer of
3 the Strategic National Stockpile of the Department of
4 Health and Human Services to the Department.

5 **SEC. 906. BIOLOGICAL AGENT REGISTRATION; PUBLIC**
6 **HEALTH SERVICE ACT.**

7 (a) PUBLIC HEALTH SERVICE ACT.—The Public
8 Health Service Act is amended—

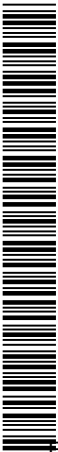
9 (1) in section 351A(a)(1)(A), by inserting “(as
10 defined in subsection (l)(9))” after “Secretary”;

11 (2) in section 351A(h)(2)(A), by inserting “De-
12 partment of Homeland Security, the” before “De-
13 partment of Health and Human Services”; and

14 (3) in section 351A(l), by inserting after para-
15 graph (8) a new paragraph as follows:

16 “(9) The term ‘Secretary’ means the Secretary
17 of Homeland Security, in consultation with the Sec-
18 retary of Health and Human Services.”.

19 (b) PUBLIC HEALTH SECURITY AND BIOTERRORISM
20 PREPAREDNESS AND RESPONSE ACT OF 2002.—Section
21 201(b) of the Public Health Security and Bioterrorism
22 Preparedness and Response Act of 2002 is amended by
23 striking “Secretary of Health and Human Services” and
24 inserting “Secretary of Homeland Security”.



1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of transfer of
3 the select agent registration enforcement programs and
4 activities of the Department of Health and Human Serv-
5 ices to the Department.

6 **SEC. 907. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS**
7 **CENTER.**

8 *[Omitted from Committee consideration]*

